

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

### Title 18. Public Revenues

Regulation 1105, *Tax-Paid Fuel and Ex-Tax Fuel*  
Regulation 1120, *Returned Sales*  
Regulation 1132, *Shipments out of the State*  
Regulation 1161, *Tax Paid Twice on Motor Vehicle Fuel*

#### **A. Factual Basis**

Chapter 1 (commencing with section 1101) of division 2 of title 18 of the California Code of Regulations (chapter 1) contains regulations that implement, interpret, or make specific the provisions of the Motor Vehicle Fuel Tax Law (Law) (part 2 (commencing with section 7301) of division 2 of the Revenue and Taxation Code), which imposes excise taxes on “motor vehicle fuel,” including gasoline and aviation gasoline, and “aircraft jet fuel.” The State Board of Equalization (BOE) hereby proposes to change the provisions of chapter 1 listed above under California Code of Regulations, title 1, section (Rule) 100 to correct outdated citations in the regulations’ reference notes and to make a minor grammatical change to the text of one regulation, as described in detail below.

Section 8101 of the Law allows a supplier, as defined, to claim a refund of the tax paid on motor vehicle fuel under specific circumstances, including, but not limited to, where the supplier buys and uses the fuel for purposes other than operating motor vehicles upon the public highways of the state, exports the fuel for use outside the state, or delivers the fuel to a terminal and removes the fuel from the terminal, as provided. In addition, prior to January 1, 2007, suppliers were permitted to choose to take a credit, in lieu of a refund, under most of these same circumstances, and there were individual statutes that separately pertained to each situation in which a credit could be claimed in lieu of a refund under section 8101, including sections 8106.5 and 8106.8 of the Law.

Effective January 1, 2007, sections 2, 4, and 5 of Assembly Bill No. 3076 (Stats. 2006, ch. 364) repealed section 8106.5 permitting a supplier to claim a credit in lieu of a refund with respect to exported tax-paid fuel, and section 8106.8 permitting a supplier to claim a credit in lieu of a refund with respect to tax-paid fuel delivered to or removed from a terminal at the rack, and amended section 8106 to consolidate into one statute all of the statutory provisions under which a supplier may claim a credit in lieu of a refund and provide that a supplier may claim a credit in lieu of a refund under all of the circumstances under which a supplier would be entitled to claim a refund under section 8101. As a result, section 8106 now permits the credits in lieu of refunds previously permitted by sections 8106.5 and 8106.8, and section 8106 should replace sections 8106.5 and 8106.8 in the reference notes for the regulations listed above. Therefore, the BOE now proposes to change the Motor Vehicle Fuel Tax regulations listed above, and described in detail below, to replace the citations to sections 8106.5 and 8106.8 with citations to section 8106 in the regulations’ reference notes and to change the word “Returns” to the word “Return” in Regulation 1120 in order to make one nonsubstantive, grammatical correction, under Rule 100.

## **B. Proposed Changes**

### **1. Rule 100 Change to Regulation 1105, *Tax-Paid Fuel and Ex-Tax Fuel***

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1105 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

### **2. Rule 100 Changes to Regulation 1120, *Returned Sales***

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1120 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

A Rule 100 change is also proposed to replace “Returns” with “Return” in the heading to subdivision (c) of Regulation 1120, to correct a grammatical error by making the term singular.

### **3. Rule 100 Change to Regulation 1132, *Shipments out of the State***

A Rule 100 change is proposed to replace “8106.5” with “8106” in the reference note for Regulation 1132 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

### **4. Rule 100 Change to Regulation 1161, *Tax Paid Twice on Motor Vehicle Fuel***

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1161 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to update the statutory references and to correct a grammatical error.

## PROPOSED CHANGES

1. Change Regulation 1105 (Tax-Paid Fuel and Ex-Tax Fuel) to read as follows:

### **Regulation 1105. Tax-Paid Fuel and Ex-Tax Fuel.**

(a) . . . (unchanged):

(1) . . . (unchanged), or

(2) . . . (unchanged), or

(3) . . . (unchanged).

(b) . . . (unchanged).

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7345, 7401, 7653, 8101 and 8106~~8106.8~~, Revenue and Taxation Code.

2. Change Regulation 1120 (Returned Sales) to read as follows:

### **Regulation 1120. Returned Sales.**

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) Conditions to Allow a Credit on a Tax Return~~Returns~~. . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged)..

(3) . . . (unchanged).

(4) . . . (unchanged).

(d) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(5) . . . (unchanged).

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7315, 8101, 8102, 8105 and 8106~~8106.8~~, Revenue and Taxation Code.

3. Change Regulation 1132 (Shipments out of the State) to read as follows:

**Regulation 1132. Shipments out of the State.**

(a) . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(b) . . . (unchanged):

(1) . . . (unchanged); or

(2) . . . (unchanged):

(A) . . . (unchanged),

(B) . . . (unchanged), or

(C) . . . (unchanged).

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7338, 7401, 7651, 8101, 8102, 8105, 8106~~8106.5~~, 8126, 8128, 8129, 8301 and 8303, Revenue and Taxation Code.

4. Change Regulation 1161 (Tax Paid Twice on Motor Vehicle Fuel) to read as follows:

**Regulation 1161. Tax Paid Twice on Motor Vehicle Fuel.**

(a) . . . (unchanged).

(b) . . . (unchanged):

(1) . . . (unchanged);

- (2) . . . (unchanged);
- (3) . . . (unchanged);
- (4) . . . (unchanged); and
- (5) . . . (unchanged).

(c) . . . (unchanged).

- (1) . . . (unchanged).
- (2) . . . (unchanged).
- (3) . . . (unchanged).

(A) . . . (unchanged):

- 1. . . . (unchanged); or
- 2. . . . (unchanged).

(B) . . . (unchanged):

- 1. . . . (unchanged); or
- 2. . . . (unchanged).

(C) . . . (unchanged).

- 1. . . . (unchanged).
- 2. . . . (unchanged).

(D) . . . (unchanged).

(E) . . . (unchanged).

(d) . . . (unchanged):

- (1) . . . (unchanged).
- (2) . . . (unchanged).
- (3) . . . (unchanged).
- (4) . . . (unchanged).
- (5) . . . (unchanged).

(6) . . . (unchanged).

(7) . . . (unchanged).

EXHIBIT A . . . [No Change]

EXHIBIT B . . . [No Change]

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7362, 7363, 8101, 8102, 8105, 8106~~8106.8~~ and 8127.5, Revenue and Taxation Code.